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**IDEM**  
**Office of Air Management**  
**Rules Guidance**

**March 1998**

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**DEVELOPMENT OF  
AMENDMENTS TO RULES CONCERNING STATE MINOR NEW SOURCE REVIEW  
PERMITTING PROGRAM  
#96-1(APCB)**

**Briefing Paper**

**Introduction**

For the past 2 years, IDEM has been working with interested parties to restructure, simplify and clarify the permitting requirements that apply to certain new or modified sources of air pollution. The draft rules IDEM presents to the board for preliminary adoption on March 4 represent a significant overhaul of this critical program. IDEM believes that the revised rules will:

- provide a truly unitary permitting system, integrating construction approvals into a source's operating permit;
- simplify public review through the consolidation of all requirements into a single document;
- shorten the review and approval time for modifications that do not have a significant environmental impact;
- categorize modifications according to their environmental impact;
- codify in rule language the streamlined permitting options for certain types of sources or modifications established in HEA 1265;
- allow the public, the sources, and the agency to focus limited resources on permitting decisions with clear environmental impact.

IDEM has worked extensively with interested businesses and members of the public on these proposed revisions. A series of public meetings, begun in September 1997, provided an opportunity for interested parties to raise issues, review and suggest draft rule language, and discuss policy questions with department staff. IDEM will continue to gather input and meet with interested parties to continue to refine the rules prior to bringing the rules to the board for final adoption. The agency has a statutory requirement to have the rules implementing HEA 1265 adopted by December 1, 1998. IDEM believes that the meetings and other outreach will assist in formulating rule language that has a broad consensus and will enable IDEM to meet the statutory deadline.

The remainder of this document describes the key elements of the proposed revisions. Also included are several documents to help explain how the permitting process would work under the proposed revisions as compared to the current rules. These documents include:

- Attachment 1: A comparison of the Tables of Contents of the current and proposed rules.
- Attachment 2: Flowcharts outlining the review process for several different types of sources under the proposed rules.
- Attachment 3: A comparison of applicability thresholds, required approvals, public process, fees, review time, and documentation under the current and proposed rules.

## **Key Features of the Proposed Rule Revisions**

### 1. A Unitary Permit System is Provided that Integrates Preconstruction and Operation Approvals

The proposed draft rules for minor sources and FESOP sources include provisions for operating permit revisions. With the operating permit revision provisions, the reviews for preconstruction and operation are integrated and after approval by IDEM, the source would be able to construct and operate the modification. Modifications at Title V (Part 70) sources would also be processed as permit revisions; however, approval to construct may precede the approval to operate. This two step process is necessary to conform with the separate federal requirements governing construction and operating approvals at major sources.

### 2. The Rule Structure is Simplified and Logically Organized

The current rule is structured such that applicability, permit requirements, and various provisions such as appeals, revocation, etc. are spread throughout the rule in different sections. This makes it very difficult for a source to determine exactly which provisions apply and where those provisions are located.

The proposed draft rules separate the different permit programs or requirements into individual rules for major sources (prevention of significant deterioration in attainment areas, offsets in nonattainment areas, toxics control), new source construction, minor sources, and the various operating permit programs (Part 70, federally enforceable state operating permits, source specific operating agreements, permit-by-rule). Provisions concerning applicability, application requirements, and permit content are contained within these separate rules. The draft rules also provide separate rules for interim permit revision approvals, general permits, and portable sources. The draft rules provide a set of “general provisions” that are applicable throughout the article and assist with consistency across the permitting programs. The proposed rule structure does increase the size of the rules, but this is necessary to provide rules that are easier to use.

### 3. The Level of Permit Review is Appropriate to the Type of Approval Sought

IDEM believes it is in the best interest of the environment, the public, and the agency for resources to be devoted to permitting decisions where there is real value added. IDEM does not believe the current rules make this allocation appropriately.

The proposed revisions address this in several ways:

- Streamlined permit revision procedures are provided for certain categories of modifications where either the potential to emit is extremely low (e.g., less than 25 tons/year) or control requirements are standardized and very straightforward for sources to implement (e.g., subject to federal New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants).
- Pollution control and pollution prevention projects are provided an expedited review process as well, as long as they do not increase emissions of any pollutants significantly.
- Sources may request and obtain emissions caps or advance approvals. These approvals provide flexibility to sources to make changes quickly while assuring that environmental impacts do not increase.

3. Review of Proposed Modifications Will be More Efficient and Tailored to the Expected Environmental Impact

Review and approval of modifications at minor sources has been generally a one-size fits all approach. IDEM believes that not all modifications warrant the same level of review. The proposed revisions categorize modifications into (1) notice-only, (2) minor, or (3) significant. The extent of agency review is commensurate with the significance of the proposed modification.

4. Operational Flexibility for Sources is Increased

As noted above, the provision of emissions caps and advance approvals will provide significant additional flexibility to sources. The rule sections under the Part 70 and FESOP specifying application and permit content requirements have been revised to describe the information and procedures for obtaining emissions caps or advance approvals.

5. Integration and Streamlining for Major Sources

This rulemaking has not focused on major sources that will operate under a Title V (Part 70) operating permit because Indiana's Title V rules must remain consistent with federal requirements. Nevertheless, the draft rules do contain a new section under Part 70 to initiate the incorporation of the streamlining and integration for Part 70 sources. The new section, 326 IAC 2-7-10.5, source modifications, incorporates some of the provisions of enhanced new source review and the categories of source modifications under the permit revision rules for minor and FESOP sources. IDEM is continuing to work with others on alternatives to incorporate the provisions of the draft rules into the Part 70 permit program.

## Other Changes

### 1. *Definitions*

The current rules do not include a definition of “emissions unit” under article 1. The draft rules will add this definition under 326 IAC 1-2-23.5 and the definition will be consistent with the definition included under 326 IAC 2-7-1. The definition of “modification” has been revised to reference the term “emissions unit” and also specifies that a modification includes construction of a new emissions unit and reconstruction of an emissions unit. The definitions of “construction” and “reconstruction” have been revised to reference “emissions unit”. The definition of “source” has been revised to be more consistent with the definition of source under 326 IAC 2-7-1, in that, a source is all activities on adjacent/contiguous property, controlled by the same person(s), and belonging to the same SIC.

### 2. *Applicability thresholds - Registrations, Permits, and Permit Revisions*

The applicability thresholds are now expressed as tons/year as opposed to lb/hr or lb/day. The one exception is VOC sources subject to 326 IAC 8, because the requirements in that rule are generally expressed in terms of lb/day, given that compliance with the ozone standard is determined on a daily basis..

### 3. *FESOPs*

The primary changes to the FESOP rule involve emission caps and permit revisions. The current FESOP rule, 326 IAC 2-8-11, includes permit modification procedures very similar to Part 70 and does not integrate construction/operation approvals, except if the enhanced new source review provisions under 326 IAC 2-1-3.2 are used. This rulemaking will repeal the current modification provisions under 326 IAC 2-8-11 and replace those with a new permit revision 326 IAC 2-8-11.1. The new permit revision section mirrors the minor and significant permit revision language under the minor source rule. 326 IAC 1-8-10 has been revised to include additional administrative amendments that are the same as the notice-only permit revisions under the minor source rule.

## What Has Not Changed

While the draft rule contains many new rule sections and provisions, the draft rule also incorporates much current rule language without any changes or with minor changes. The following are examples that carry over existing provisions in conformance with the new nomenclature:

- new rule, 326 IAC 2-4.1 incorporates current rule language for new source toxic control under 326 IAC 2-1-3.4.
- new rule for interim permit revisions under 326 IAC 2-13 incorporates the interim construction provisions from the current 326 IAC 2-1-3.1.
- new rule section, 326 IAC 2-1.1-12, incorporates the current fee section under 326 IAC 2-1-7.1.

- new rule section, 326 IAC 2-1.1-8 incorporates the current requirements under 326 IAC 2-5.

## **What Issues Remain**

IDEM has not included every suggestion in these draft rules. Several issues remain for further discussion prior to final adoption of the changes. Others are best addressed through separate rulemaking actions.

IDEM expects to focus on the following additional issues prior to final adoption:

- **Part 70 sources** - While the new section 326 IAC 2-7-10.5, source modifications, is a first step in providing some relief to Part 70 companies once 326 IAC 2-1 is repealed, additional work will still be needed to refine the draft rule language under this section. Some of the language is identical to the enhanced NSR provisions under the current 326 IAC 2-1-3.2, but does not provide for the same options concerning what process will be used to revise the operating permit. Comments have been received asking about including the notice-only categories and whether optional provisions can be included to increase flexibility. The flexibility would be provided by having options that a source could take to either just get a registration/permit and apply for a Part 70 permit modification after construction or apply for and obtain a combined construction and operating approval together that would allow the Part 70 permit to be amended administratively. In addition, many Part 70 sources will not receive their Part 70 permit for some time and provisions will have to be available for Part 70 sources that have not yet received the final Part 70 permit.
- **General** - The draft rules provides a compliance schedule for sources not previously permitted/registered and those with operating permits and registrations. There have been questions concerning transition provisions for sources with permits or sources that may be operating under an old permit while IDEM has a renewal application. Questions about whether the permit revision procedures will be available to these sources have been asked, as well as questions concerning whether or not a savings provision would or should be included in the draft rules.
- **Further integration** - There have been some comments about going even farther than what has been done to date to completely integrate construction and operating requirements. In this scenario, each permit rule, whether it is for minor sources, FESOP, or Part 70 would include construction permit requirements followed by the operation requirements. Instead of going to a rule that describes construction requirements and then transitioning to another rule that describes operation and modification requirements, everything would be included under one rule for a particular type of source.

## ATTACHMENT 1

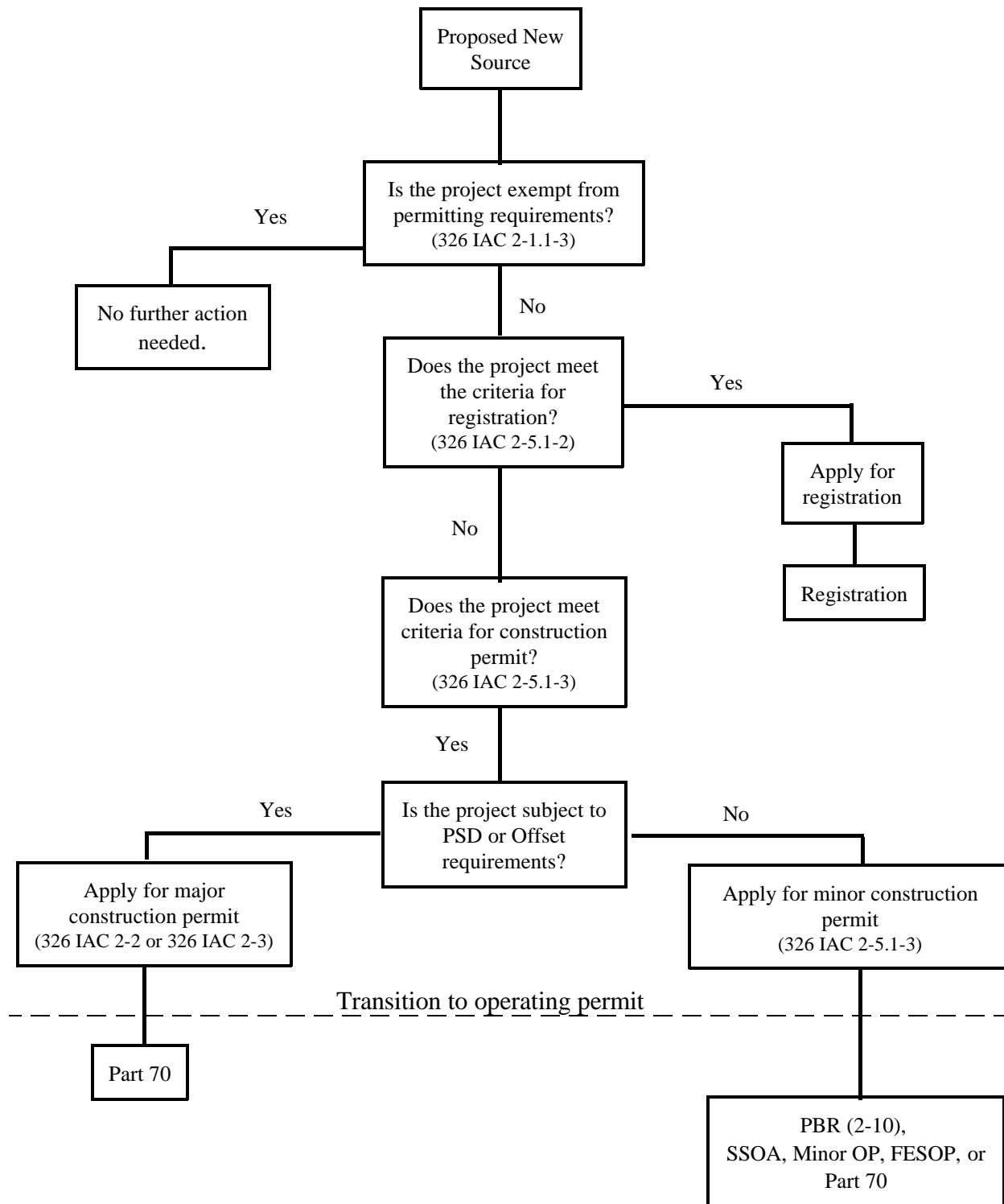
### Table of contents - Current 2-1

326 IAC 2-1 Construction & Operating Permit Requirements	
2-1-1 Rule applicability	
2-1-2 Registration	
2-1-3 Construction permits	
2-1-3.1 Interim construction permit	
2-1-3.2 Enhanced NSR	
2-1-3.4 New source toxics control	
2-1-4 Operating permits	
2-1-5 Emission limitations	
2-1-6 Transfer of permits	
2-1-7.1 Fees	
2-1-8 Appeals	
2-1-9 Revocation	
2-1-10 Permit alone does not constitute a defense	
2-1-11.1 Local agency	
2-1-12 Permitting conflicts	
2-1-13 Discretionary actions	
326 IAC 2-2	PSD
326 IAC 2-3	Offsets
326 IAC 2-4	Compliance using bubble strategy
326 IAC 2-5	Accountability
326 IAC 2-6	Emission reporting
326 IAC 2-7	Part 70
326 IAC 2-8	FESOP
326 IAC 2-9	SSOA
326 IAC 2-10	Permit by rule (general)
326 IAC 2-11	Permit by rule (specific)

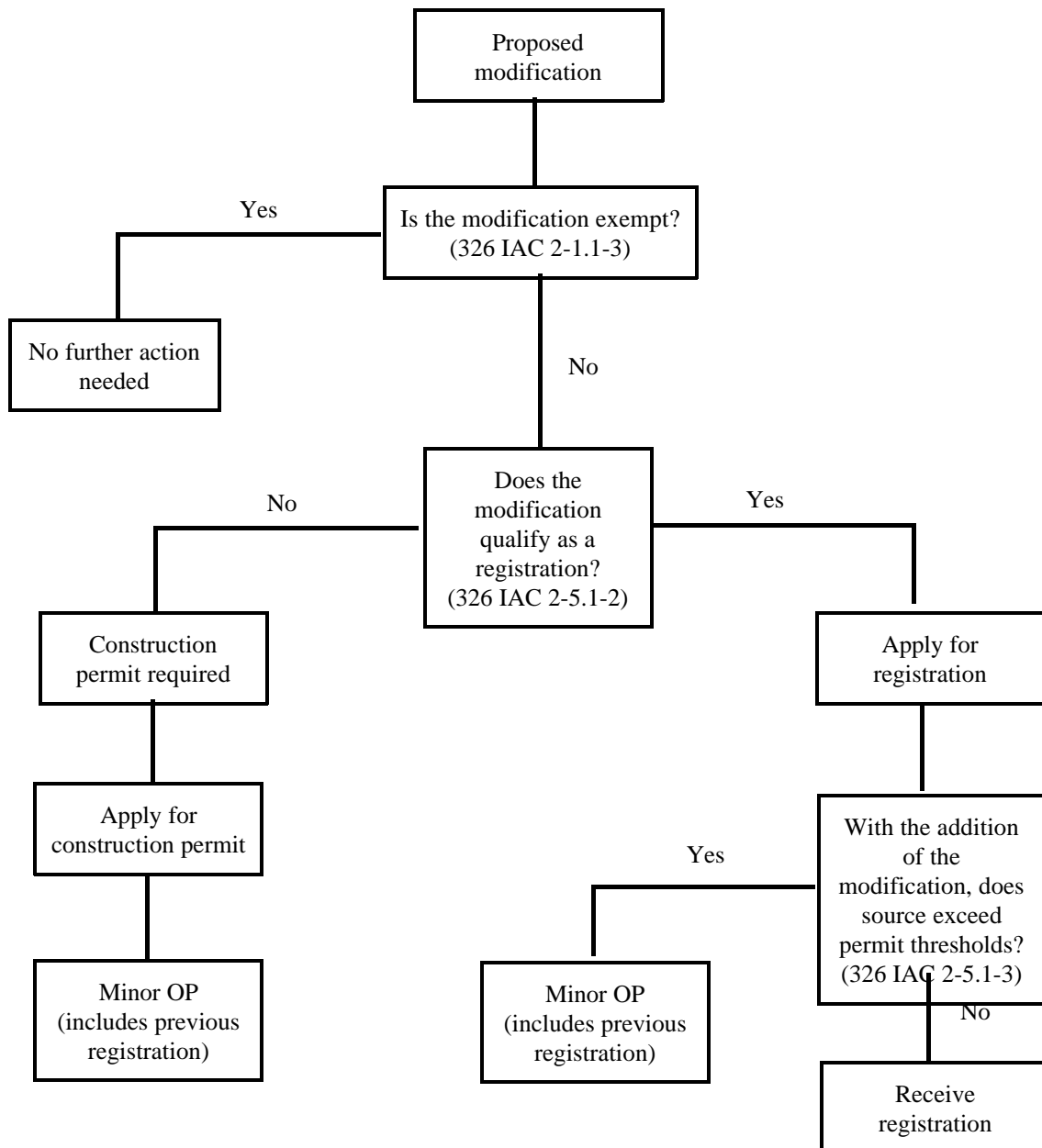
### Table of contents - Proposed rule

326 IAC 2-1.1 General provisions	
2-1.1-1 Definitions	
2-1.1-2 Applicability	
2-1.1-3 Exemptions	
2-1.1-4 Federal provisions	
2-1.1-5 Air quality requirements	
2-1.1-6 Public notice	
2-1.1-7 Fees	
2-1.1-8 Accountability	
2-1.1-9 Revocation	
2-1.1-10 Local agencies	
326 IAC 2-2	PSD
326 IAC 2-3	Offsets
326 IAC 2-4.1	New source toxics control
326 IAC 2-5.1	Construction of new sources
326 IAC 2-6.1	Minor sources
326 IAC 2-7	Part 70
326 IAC 2-8	FESOP
326 IAC 2-9	SSOA
326 IAC 2-10	Permit by rule (general)
326 IAC 2-11	Permit by rule (specific)
326 IAC 2-12	General permits
326 IAC 2-13	Interim permit revision approval
326 IAC 2-14	Portable sources

**ATTACHMENT 2 -- AIR PERMITTING FLOW DIAGRAM FOR  
NEW (GREENFIELD) SOURCE**

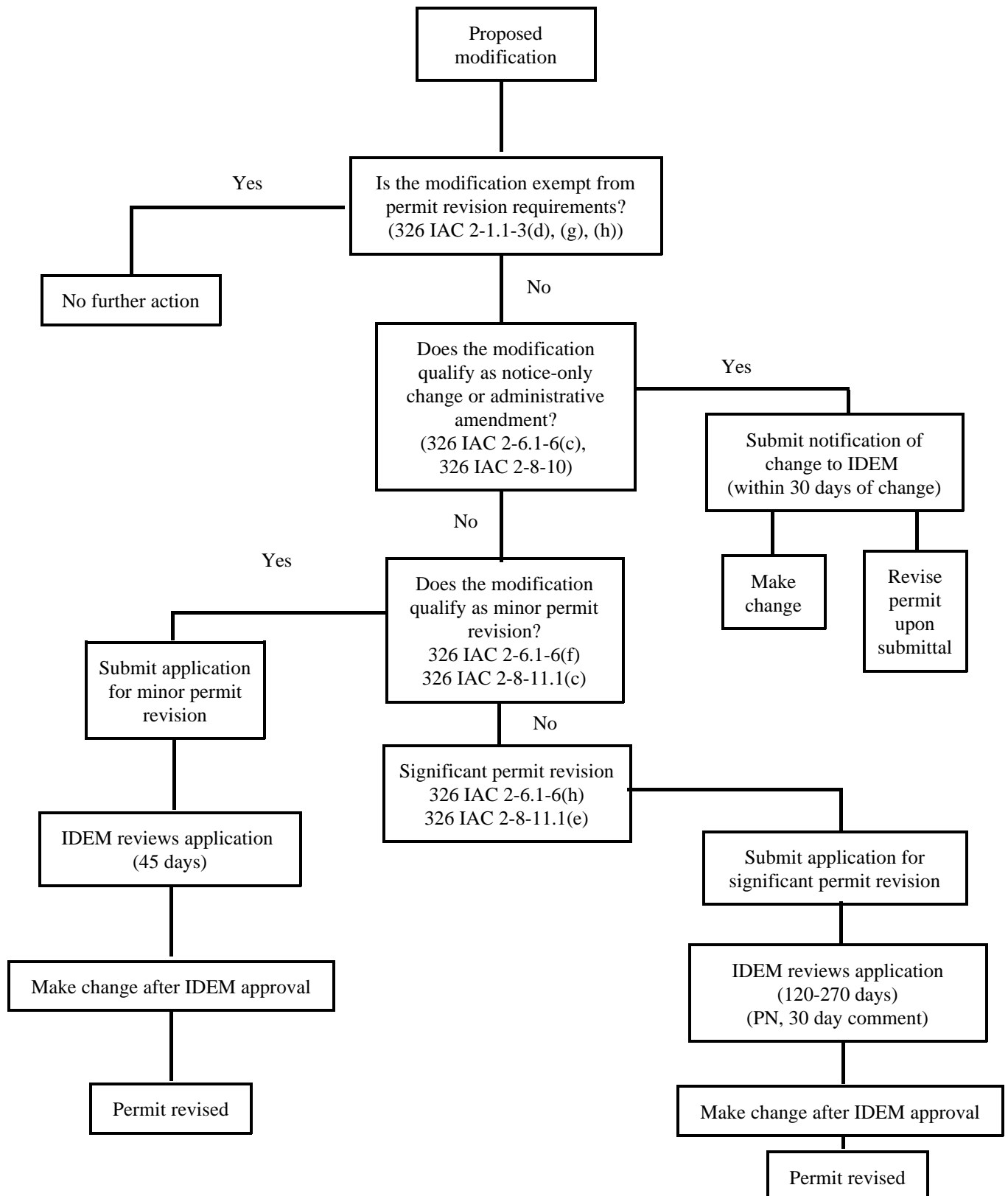


**ATTACHMENT 2 -- AIR PERMITTING FLOW DIAGRAM  
FOR EXISTING SOURCE OPERATING UNDER A REGISTRATION**





**ATTACHMENT 2 -- AIR PERMITTING FLOW DIAGRAM FOR MODIFICATION OF  
AN EXISTING SOURCE OPERATING UNDER A OPERATING PERMIT**



**ATTACHMENT 3**  
**Greenfield Sources**  
**Registrations**

	Current Rule	New Proposed Rule
<b>Criteria Pollutant Applicability</b>	Based on Allowable Emissions PM >= 25 lb/day but < 25 TPY SO2 >= 50 lb/day but < 25 TPY NOx >= 25 lb/day but < 25 TPY VOC >= 15 lb/day but < 25 TPY CO >= 125 lb/day but < 25 TPY	Based on Potential to Emit <b>PM &gt;= 5 TPY</b> but < 25 TPY <b>PM10 &gt;= 5 TPY</b> but < 25 TPY <b>SO2 &gt;= 10 TPY</b> but < 25 TPY <b>NOx &gt;= 10 TPY</b> but < 25 TPY <b>VOC &gt;= 10 TPY</b> but < 25 TPY* <b>CO &gt;= 25 TPY</b> but < <b>100 TPY</b> <b>Pb &gt;= 0.2 TPY</b> but < 5 TPY
<b>HAP Applicability</b>		
<b>Other Criteria for Applicability</b>		1. *VOC source subject to 326 IAC 8 VOC >= 15 lb/day but < 25 TPY  2. Other Pollutants: Hydrogen sulfide Total reduced sulfur Reduced sulfur compounds Fluorides >= 5 TPY but < 25 TPY  3. Decorative Chromium Platers subject to 326 IAC 20-8
<b>Approval Needed?</b>	Yes, Prior to beginning construction	Yes, Prior to beginning construction
<b>Application Required?</b>	Yes	Yes
<b>Public Participation</b>	AOPA	AOPA
<b>Fees</b>	One Time \$600 Fee	One Time \$600 Fee
<b>Time of Review</b>	60 Days	60 Days
<b>Associated Operating Permit</b>	None	None

**ATTACHMENT 3**  
**Greenfield Sources**  
**State Construction Permits**

	Current Rule	New Proposed Rule
<b>Criteria Pollutant Applicability</b>	Based on Allowable Emissions PM >= 25 TPY but < 100, 250 TPY SO2 >= 25 TPY but < 100, 250 TPY NOx >= 25 TPY but < 100, 250 TPY VOC >= 25 TPY but < 100, 250 TPY CO >= 25 TPY but < 100, 250 TPY Pb >= 5 TPY	Based on Potential to Emit <b>PM</b> >= 25 TPY but < 100, 250 TPY <b>PM10</b> >= 25 TPY but < 100, 250 TPY <b>SO2</b> >= 25 TPY but < 100, 250 TPY <b>NOx</b> >= 25 TPY but < 100, 250 TPY VOC >= 25 TPY but < 100, 250 TPY <b>CO</b> >= <b>100 TPY</b> Pb >= 5 TPY
<b>HAP Applicability</b>	Single: >= 10 TPY Combination: >= 25 TPY	Single: >= 10 TPY Combination: >= 25 TPY
<b>Other Criteria for Applicability</b>	1. Pb >= 1TPY from the following: * Primary Lead Smelter * Secondary Lead Smelter * Primary Copper Smelter * Lead Gasoline Additive Plants * Lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day	1. Pb >= 1TPY from the following: * Primary Lead Smelter * Secondary Lead Smelter * Primary Copper Smelter * Lead Gasoline Additive Plants * Lead-acid storage battery manufacturing plants that produce 2,000 or more batteries per day 2. <b>Other Pollutants:</b> <b>Hydrogen sulfide</b> <b>Total reduced sulfur</b> <b>Reduced sulfur compounds</b> <b>Fluorides</b> <b>&gt; 25 TPY</b> 3. <b>Chromium Platers subject to 326 IAC 20-8 not qualifying for a registration</b> 4. <b>Medical Waste Incinerators</b> 5. <b>Area and minor sources that only have parts of the source requiring Part 70</b>
<b>Approval?</b>	Yes, Prior to beginning construction	Yes, Prior to beginning construction
<b>Application?</b>	Yes	Yes
<b>Public Notice?</b>	30 Day PN	30 Day PN
<b>Fees</b>	\$3500	\$3500
<b>Time of Review</b>	120 Days	120 Days
<b>Operating Permit</b>	State Operating Permit, Permit by Rule, SSOA, FESOP, Title V	State Operating Permit, Permit by Rule, SSOA, FESOP, Title V

**ATTACHMENT 3**  
**Modifications - Notice Only/Administrative Amendment**

	<b>Current Rule</b>	<b>New Proposed Rule</b>
<b>Pollutant Applicability</b>		N/A
<b>Permitting Requirements</b>		1. Amend the operating permit administratively
<b>Other Changes That Qualify as Notice Only</b>		1. Changes correcting typographical errors 2. Minor changes such as name, address, or phone number of any person identified in the permit or change in descriptive information concerning the source or emission unit/s 3. Changes in ownership or operational control of a source 4. Changes that would require more frequent monitoring or reporting 5. Changes involving a pollution control project or P2 project that does not increase PTE above registration level or significant CM changes 6. Incorporation of newly applicable requirements as a result in change of applicability 1. Incorporation of alternative CM requirements having EPA approval 2. Incorporation of newly-applicable CM requirements 3. Incorporates alternative CM requirements specified in applicable requirement 10. Modifications that have PTE of >1 TPY but ≤10 TPY of single HAP or >2.5 TPY but ≤25 TPY of any combination 11. Modifications that can meet limits for a SSOA or general permit 12. Non-emergency repair or replacement 13. Add additional unit(s) already covered by permit and not subject to PSD. 14. Addition of unit subject to specific NSPS, NESHAP. 15. Addition of VOC emitting unit subject to specific NSPS and not subject to 8-1-6.
<b>Approval?</b>		N/A
<b>Application?</b>		No, but notification of the proposed changes
<b>Public Notice?</b>		no
<b>Fees</b>		none
<b>Time of Review</b>		as needed

**ATTACHMENT 3**  
**Modifications - Minor Operating Permit Revisions**

	<b>Current Rule</b>	<b>New Proposed Rule</b>
<b>Pollutant Applicability</b>	Based on Allowable Emissions  Same as registration levels of Greenfield sources.	Based on Potential to Emit <b>PM</b> >= <b>5 TPY</b> but < 25 TPY <b>PM10</b> >= <b>5 TPY</b> but < 25 TPY <b>SO2</b> >= <b>10 TPY</b> but < 25 TPY <b>NOx</b> >= <b>10 TPY</b> but < 25 TPY <b>VOC</b> >= <b>10 TPY</b> but < 25 TPY* <b>CO</b> >= <b>25 TPY</b> but < <b>100 TPY</b> <b>Pb</b> >= <b>0.2 TPY</b> but < 5 TPY <b>*VOC source subject to 326 IAC 8</b> <b>VOC</b> >= <b>15 lb/day</b> but < <b>25 TPY</b>
<b>Permitting Requirements</b>	1. Obtain the appropriate approval	1. Obtain the appropriate approval 2. Amend the operating permit administratively if applicable
<b>Other Changes That Qualify Under Operating Permit Amendments</b>		1. Changes that would reduce the frequency of monitoring or reporting 2. The addition of a portable source 3. Changes involving a pollution control project or P2 project with no changes in PTE above significant permit revision 4. Limiting PTE to less than 25 TPY for any criteria pollutant, 10 TPY for any single HAP, or 25 TPY for any combination of HAPs using one of the specified methodologies 5. A change in which a RACT, NSPS or NESHAP is the most stringent applicable standard and not included as notice-only revision except for modifications that are subject to 40 CFR 63, Subpart B 6. A change that limits the PTE to avoid 326 IAC 8-1-6
<b>Approval?</b>	Yes, Prior to beginning construction	Yes, Prior to beginning construction
<b>Application?</b>	Yes	Yes
<b>Public Notice?</b>	AOPA	No
<b>Fees</b>	One Time \$600	One Time \$600
<b>Time of Review</b>	60 days	45 days

**ATTACHMENT 3**  
**Modifications**  
**Significant Operating Permit Revisions**

	Current Rule	New Proposed Rule
<b>Pollutant Applicability</b>		Based on Potential to Emit <b>PM</b> >= <b>25 TPY</b> <b>PM10</b> >= <b>25 TPY</b> <b>SO2</b> >= <b>25 TPY</b> <b>NOx</b> >= <b>25 TPY</b> <b>VOC</b> >= <b>25 TPY</b> <b>CO</b> >= <b>100 TPY</b> <b>Pb</b> >= <b>1 TPY</b>
<b>Permitting Requirements</b>	1. Obtain the appropriate approval	1. Obtain the appropriate approval 2. Revise the existing operating permit
<b>Other Changes That Require Modification of the Operating Permit</b>		1. Any change requiring the source to upgrade to a FESOP or Title V 2. Lead sources (5 TPY) that increase Pb PTE greater than or equal to 0.6 TPY 3. A change that is subject to 326 IAC 8-1-6 4. Any modifications subject to 2-2, 2-3 or 2-4.1 5. Changes involving a pollution control project that results in a change in PTE above significant permit revision level and requires a significant change in CM 6. Changes involving a pollution prevention project that increases PTE above significant permit revision level 7. Other Pollutants: Hydrogen sulfide Total reduced sulfur Reduced sulfur compounds Fluorides PTE < 25 TPY
<b>Approval?</b>		Yes
<b>Application?</b>		Yes
<b>Public Notice?</b>		30 day PN
<b>Fees</b>		\$3500
<b>Time of Review</b>		120/270 days